



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2013-0161]

Proposed Revision to Missiles Generated by Extreme Winds

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft section revision; request for comment and use.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on a proposed revision 4 to Section 3.5.1.4, "Missiles Generated by Extreme Winds," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition." This revision incorporates guidance and recommendations from Regulatory Guide (RG) 1.221, "Design-Basis Hurricane and Hurricane Missiles for Nuclear Power Plants," and Interim Staff Guidance DC/COL-ISG-024, "Implementation of Regulatory Guide 1.221 on Design-Basis Hurricane and Hurricane Missiles." In addition, this revision provides clarification on areas of review and acceptance criteria for assessment of design-basis missiles generated by extreme winds. The revision also incorporates guidance on regulatory treatment of nonsafety systems.

DATES: Comments must be filed no later than **[INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION]**. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0161. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN 06-A56, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone at 301-415-6992 or e-mail at Jonathan.DeGange@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC-2013-0161 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0161.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public Documents](#)” and then select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS Accession numbers for the redline document comparing the current revision and the proposed revision are available in ADAMS under Accession Nos.: Proposed revision 4 (ML13043A004), current revision 3 (ML070380174), and redline (ML13064A400).

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

B. Submitting Comments

Please include Docket ID NRC-2013-0161 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at <http://www.regulations.gov> as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The Office of New Reactors and Office of Nuclear Reactor Regulation are revising Section 3.5.1.4 of the SRP from the current revision 3. Changes in this revision include new guidance for hurricane winds and associated missiles from RG 1.221, "Design-Basis Hurricane and Hurricane Missiles for Nuclear Power Plants" (ADAMS, Accession No. ML110940300), and Interim Staff Guidance DC/COL-ISG-024, "Implementation of Regulatory Guide 1.221 on Design-Basis Hurricane and Hurricane Missiles" (ADAMS Accession No. ML13015A693).

The NRC staff is issuing this notice to solicit public comments on the proposed revision 4 of Section 3.5.1.4 of the SRP. After the NRC staff considers any public comments, it will make a determination regarding the proposed revision to Section 3.5.1.4.

III. Backfitting and Issue Finality

This draft SRP, if finalized, would provide guidance to the staff for reviewing applications for a construction permit and an operating license under Part 50 of Title 10 of *the Code of Federal Regulations* (10 CFR) with respect to missiles generated by extreme winds. The draft SRP would also provide guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR Part 52 with respect to those same subject matters.

Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, or otherwise be inconsistent with the issue finality provisions in 10 CFR Part 52. The staff's position is based upon the following considerations.

1. The draft SRP positions, if finalized, do not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff.

The SRP provides interim guidance to the staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which applicants or licensees are protected under 10 CFR 50.109 or issue finality provisions in 10 CFR Part 52.

2. Backfitting and issue finality – with certain exceptions discussed below - do not protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR Part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR Part 52 – with certain exclusions discussed below – were intended to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR Part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the draft SRP section (if finalized) in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP section (if finalized) in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. The staff has no intention to impose the draft SRP positions on existing nuclear power plant licenses or regulatory approvals either now or in the future (absent a voluntary request for change from the licensee, holder of a regulatory approval, or a design certification applicant).

The staff does not intend to impose or apply the positions described in the draft SRP section to existing (already issued) licenses (e.g., operating licenses and combined licenses) and regulatory approvals – in this case, design certifications. Hence, the draft SRP – even

if considered guidance which is within the purview of the issue finality provisions in 10 CFR Part 52 – need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP (if finalized) on holders of already issued holders of licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule, or address the criteria for avoiding issue finality as described applicable issue finality provision, as applicable.

Dated at Rockville, Maryland, this 1st day of August 2013

For the Nuclear Regulatory Commission.

George M. Tartal, Acting Chief
Policy Branch
Division of Advanced Reactors and Rulemaking
Office of New Reactors

[FR Doc. 2013-19177 Filed 08/07/2013 at 8:45 am; Publication Date: 08/08/2013]